

PUBLIC HEARING

FEBRUARY 11, 2015

A public hearing of the Council of the County of Kaua'i was called to order by Arryl Kaneshiro, Chair, Budget & Finance Committee, on Wednesday, February 11, 2015, at 1:33 p.m., at the Council Chambers, 4396 Rice Street, Suite 201, Historic County Building, Līhu'e, and the presence of the following was noted:

Honorable Mason K. Chock
Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Arryl Kaneshiro
Honorable KipuKai Kuali'i
Honorable JoAnn A. Yukimura
Honorable Mel Rapozo

The Clerk read the notice of the public hearing on the following:

"Bill No. 2574 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Real Property Tax Relief for the 2015 Tax Year*),"

which was passed on first reading and ordered to print by the Council of the County of Kaua'i on January 14, 2015, and published in The Garden Island newspaper on January 20, 2015.

The following communications were received for the record:

1. English, Anne, dated February 10, 2015
2. Kelley, Mary Lu, dated February 9, 2015
3. Maitino, Maria, dated February 9, 2015
4. Vernon Family, dated February 10, 2015

The hearing proceeded as follows:

SCOTT K. SATO, Council Services Review Officer: We received four (4) written testimony all in support, and we currently have three (3) registered speakers. The first speaker is Gary Pierce, followed by Glenn Mickens.

Committee Chair Kaneshiro: Gary, please come up. State your name, and you have three (3) minutes.

GARY PIERCE: For the record, my name is Gary Pierce. Bill No. 2574 is a good start. A permanent cap must be placed. You say you are for equity. Using the homeowner exemption is nothing but pondering, segmenting, and dividing the voters. The Homestead and Residential rate must be combined. At least if this happens, the Council would not have had the Bynum problem. California Proposition 13 has always worked and has worked for forty (40) years. The valuation happens upon the transfer of the property. As you know, Mark Zuckerberg from Facebook just spent eighteen million dollars (\$18,000,000) for less than an acre on a *kuleana* on the beach. Under current valuations, it will be grouped in average not based on the purchase price. If it was based on the Residential rate, taxes would be at one hundred eight thousand dollars (\$108,000), that is at six dollars (\$6) per one thousand (1,000), based on the eighteen million dollars (\$18,000,000) that he paid for property. You say you are for equity and low income housing. The Additional Dwelling Unit (ADU) will be taxed at the highest rate as a residence. If a pensioner or a widow rents a room, she will be taxed at the highest rate. Your mandated goal is more low income housing. This is not the way. Your policies do not fit your stated goals. You are deceiving the public. These cap changes have a significant change upon the social fabric psychology of the people in many unforeseen ways. It is in my opinion –well, I am not going to say that. Anyway, I am done. Thank you very much.

Councilmember Yukimura: Question.

Committee Chair Kaneshiro: Clarifying question, right?

Councilmember Yukimura: Yes. Mr. Pierce, did you say that you do not believe in the homeowner exemption?

Mr. Pierce: I believe that the homeowner exemption is not being used properly and it does not provide enough of the tax break currently, and it should be capped. You are saying that the homeowner exemption is a way to manipulate. Well, I think it is age discrimination.

Councilmember Yukimura: I did not say that.

Mr. Pierce: Okay. Well, I am sorry. I have misquoted you. The homeowner exemption was not given during the time of the recent run up between 2003 and 2008, 2009. I think the homeowner exemption should not be there. I believe there should be a cap and it should not –how do you want to say it? It should be eliminated and I believe the property taxes should be capped.

Councilmember Yukimura: Okay. So, do away with the homeowners exemption?

Mr. Pierce: Yes, and it should be capped and it should be capped back to the 2002-2003 rate before the rapid run up and before the passage of Dodd-Frank in our banking systems. Thank you.

Councilmember Yukimura: Somebody like Mr. Zuckerberg could be capped also?

Mr. Pierce: That is correct, but he will be capped at the current valuation of what he purchased the property. As soon as the property transfers, it will be at the valuation of the property transfer. Now, again, when that happens if you have commercial properties the cap should be on residential because if you have commercial properties, they will tend to stay in a corporation or a trust or whatever it is and the name change will not occur. So, you will not pick up the increase in valuation because it will probably stay within that name for a long period of time.

Councilmember Yukimura: Thank you.

Committee Chair Kaneshiro: Any other questions? No.

Mr. Sato: Next speaker is Glenn Mickens, followed by Carl Imperato.

GLENN MICKENS: For the record, Glenn Mickens. With the Chair's permission, I have testimony from Walter Lewis. He cannot be here today. I am sorry. I am looking at the wrong Chair.

Council Chair Rapozo: Arryl.

Mr. Mickens: Okay, Arryl. Thank you. I would like to just read his testimony if I might.

Committee Chair Kaneshiro: Okay. Are you going to testify also?

Mr. Mickens: No.

Councilmember Yukimura: Excuse me. Who are you reading it for?

Councilmember Kagawa: Walter Lewis.

Councilmember Yukimura: Who?

Committee Chair Kaneshiro: Walter Lewis.

Mr. Mickens: Walter Lewis.

Councilmember Yukimura: Okay. Thank you.

Mr. Mickens: First, I want to thank Gary Hooser for this Bill. I think it is badly needed temporarily, but I think it can be fixed. I believe that Bill is required in the circumstance. I proposed two (2) clarifications in it. In Section 1, after the word "rates," change "and" to "or." As written, it is indicated that all three (3) conditions must exist for relief. Two, in Section 2(c)4, it appears that existing exemptions must remain in effect. Is it intended that if because of age change, the exemption is increased and the prior exemption terminated relief is to be denied? Bill No. 2574 may be appropriate to provide a Band-Aid to remedy unintended consequences of a prior amendment to our Real Property Tax laws, but it illustrates the critical need that we have to make a comprehensive reform of our Real Property Tax laws. For too many years when the Council has identified what it conceives to be an inequity that should be remedied. The recourse chosen has been to enact and *ad hoc* change that replaces one problem with another. The property tax law that our County inherited from the State was unduly complex and cumbersome. The various changes made by the County have increased its complexity and complicated its Administration. Any tax law that effectively serves governmental need for revenue and distributes its burdens fairly among the taxpayers should be simple, equitable, and stable. The best chance for Kaua'i to achieve these objectives would be through major and comprehensive reform. I strongly urge the appointment of a properly constituted task force to study our present law, consider the improvements required, and make recommendations to the Council for their enactment. Would it not be wonderful for the Council if the only annual action required of it would be to set the tax rate for a single class of taxpayers and what a relief it would be for taxpayers to have a law that would not be tinkered with every year, and tax obligations that were predictable and fair? I know that this is coming from a retired lawyer who has a lot of experience in this field, and I hope you take into consideration. I agree with Gary Pierce that Proposition 13 in California is working still for forty (40) years. I think something to that effect would help greatly. Thank you.

Councilmember Yukimura: Question.

Committee Chair Kaneshiro: The testimony was from Walter Lewis.

Councilmember Yukimura: I know. I have a question for Mr. Mickens to give to Walter Lewis. Number one, I want to ask for a copy please.

Mr. Mickens: Sure.

Councilmember Yukimura: Number two, I would like to ask Mr. Lewis to submit a Bill, since he is a lawyer, that embodies the reforms he would like to see.

Mr. Mickens: Okay.

Councilmember Yukimura: Thank you.

Mr. Mickens: Can she write that down for me, JoAnn?
Your words.

Councilmember Yukimura: You can watch the television.

Mr. Mickens: Okay. Thank you.

Mr. Sato: Our last registered speaker is Carl Imparato.

CARL IMPARATO: Aloha. Do I have three (3) minutes or six (6) minutes?

Committee Chair Kaneshiro: Three (3) minutes.

Mr. Imparato: Just three (3)?

Committee Chair Kaneshiro: If nobody is going to testify after you, you can have another three (3) minutes.

Mr. Imparato: Okay. Aloha Councilmembers. My testimony expresses my support for Bill No. 2574 and its one (1) year freeze on homeowner occupied tax increase, but it also asks that the Bill's freeze be strengthened so that it does not expire until true property tax reform is put into place. I have testified on several occasions that the current *ad valorem* property tax system is broken and that there will never be a just and equitable property tax system for residential property taxation until the County moves away from the *ad valorem* system. Some Councilmembers still disagree that there is nothing that more Band-Aids and special loopholes cannot cure, but I disagree entirely. As I have testified, every fix that has been proposed categorical exemptions, tax rates, targeted exemptions, phase-ins, home preservation credits, low income credits, et cetera, they all add complexity, arbitrariness, and inequity. Far more importantly, they will all be ineffective when property values rise during the new real estate cycle. The *ad valorem* system that was discarded in 2005 and reinstated in 2013 did not and cannot protect homeowners from large unfair tax increases. It cannot protect homeowners as real estate prices jump in the future because its foundation is the premise that a homeowner's property tax, it should be based on what others pay for nearby property years later. It bases property taxes on the

whims of real estate markets, speculation, and international demand for Kaua'i property. Under the basic premise, the system must inequitably shift property tax burdens from some neighborhoods to other neighborhoods based on external forces. Reducing tax rates or increasing homeowner exemptions essentially shift a greater portion of the tax burden to the homeowners in the communities that have experienced the greatest impacts of real estate speculation. The math is inescapable. The *ad valorem* tax system is not stable, it is not predictable, it is not simple, it is not equitable, and for those reasons, it was resoundingly rejected by two-thirds (2/3) of Kaua'i's voters in 2004 and it was wrong for the Council to bring it back in 2013.

I would like to present an example of how insane, arbitrary, and susceptible to corruption this current system is. In 2007, billionaire Pierre Omidyar bought the nineteen (19) acre Hanalei Plantation Hotel site overlooking Hanalei Bay along with adjacent marsh property for something approaching either thirty-six million dollars (\$36,000,000) or seventy-five million dollars (\$75,000,000). It is hard to tell which number from the tax records, but based on the lower number and based on previous property assessments, it is reasonable to say that parcel was worth at least twenty-five million dollars (\$25,000,000) in 2007. Mr. Omidyar claimed the parcel was only worth eight million nine hundred thousand dollars (\$8,900,000). Eight million nine hundred thousand dollars (\$8,900,000) for nineteen (19) acres lining the Hanalei River, the most spectacular parcel in Hawai'i. In 2011, the County agreed to assess the land at just eleven million five hundred thousand dollars (\$11,500,000).

Mr. Sato: Three (3) minutes.

Mr. Imparato: In 2012...

Committee Chair Kaneshiro: Oh, Carl, your three (3) minutes is up. I am going to see if anybody else in the audience wants to speak. If nobody else wants to speak, you can have your other three (3) minutes. Does anybody else in the audience want to testify on this Bill? We have somebody else, Carl.

Mr. Imparato: Okay.

Committee Chair Kaneshiro: I will call you back.

Mr. Imparato: I will come back. Thank you.

DOROTHEA HAYASHI: Dorothea Hayashi. I was not really here to speak on this Bill, but listening that what has been said, my experience with my child who lives in California, he said how wonderful it is because in California –we are always talking about the mainland this. I have always kind of resented it

because I live in Hawai'i. He has said that what they had done in California was the best thing that could have happened as previous testimonies we have heard. When you purchase your property, that is what you are taxed on, otherwise you are capped. I would really love to see that happen because all of our older generation, even myself, I am already in that stage where our properties were –if it was capped at that, we could retain it for our children. What is happening now is just, even on commercial properties. I do not know if I am right or wrong, but those who do commercial businesses on their properties whether it is agriculture or homes, I think they should be taxed at commercial prices because you are doing business that should be in commercially zoned areas. If you are going to bring that commercial status onto your property, you should be responsible. I do not know if it is being done, but I just wanted to bring that up. Thank you.

Committee Chair Kaneshiro: Thank you. Anybody else in the audience wishing to testify? Seeing nobody, Mr. Imparato, you can have your second three (3) minutes.

Mr. Imparato: Thank you. Carl Imparato. As I was saying as an example, Mr. Omidyar bought a property that was worth about twenty-five million dollars (\$25,000,000), appealed it, got the tax basis assessment down to just eight million nine hundred thousand dollars (\$8,900,000) or he appealed it to eight million nine hundred thousand dollars (\$8,900,000), and the County basically agreed to assess it at eleven million five hundred thousand dollars (\$11,500,000). Then, in 2012, it dropped the assessments to ten million eight hundred thousand dollars (\$10,800,000) and in three (3) years since then, the assessed value has not gone up one cent (\$0.01). You know that way property values have gone up on the North Shore of Kaua'i. This has not gone up one cent (\$0.01). Over the past five (5) years, the assessment on the Omidyar property has gone down by close to ten percent (10%), but during that same period, the assessment on my home on Kūhiō Highway has increased by thirty-seven percent (37%), and that is not a typical of other properties in Hanalei and on the island. So, there is something very wrong with this system when the richest man in Hawai'i with a net worth of eight billion dollars (\$8,000,000,000) buys nineteen (19) acres of the most beautiful land in the State has it assessed at a low ball value of eleven million five hundred thousand dollars (\$11,500,000), and then the assessment drops by another ten percent (10%) while at the same time nearby properties are seeing assessments that are in the forty percent (40%) range. There is something really wrong with the system. In addition to the problems with the math and the fundamentals, this system is just rife with arbitrariness and corruption. To be frank, I do not hold out much hope for true property tax reform in the current political environment because right now, the deck is stacked against meaningful change primarily because the default right now is the current *ad valorem* system. Simple obstructionism on any Tax Reform Committee by the Administration's members, by appointees of Councilmembers who are wedded to the status quo means that it is very unlikely to achieve true reform. Nothing will see the light of day and we will have to have five (5) votes out of seven (7) on this Council in order to override the Mayor's inevitable veto of anything that threatens the *ad valorem* system.

The only way that I see a possibility of true reform is that we start with something that motivates reform. If we had started with the Permanent Home Use (PHU) cap system that was in place, the one that the voters said they wanted by a 2:1 majority, then there would be motivation on the part of parties to look at reform. Alternatively, because that ship has sailed, if we start with a freeze that stays in effect until there is a move away from the *ad valorem* system, then there is the possibility of true reform. In addition to the fact that we need a timeout as it is proposed in Bill No. 2574, it is only a halfway measure because it only addresses 2015. For that reason, I ask that you amend the Bill so that its freeze will remain in place until true reform and a residential property tax system that is not based on the *ad valorem* method is implemented. I thank you for your courtesy and giving me the extra time. I have written testimony that I will submit.

Committee Chair Kaneshiro: Yes, please send it in. Councilmember Yukimura.

Councilmember Yukimura: Thank you. Carl, just two (2) questions. One, similar to the one I made of Mr. Lewis. Could you give us conceptually what your idea of true property reform is? Also, in creating such a reform system, do you agree that one of the goals of such a system is to provide enough revenues for providing County services?

Mr. Imparato: In response to the second question, I agree and there is absolutely no reason why a PHU cap system would not provide the County with adequate revenue depending on the rate that you allow the cap to go up every year.

Councilmember Yukimura: Okay. Then, include in that system that you will be providing to us, the assumption about how much the system needs to provide for services.

Mr. Imparato: Will do.

Councilmember Yukimura: Thank you.

Committee Chair Kaneshiro: Any other questions? Thank you. Anybody else in the audience wishing to testify?

There being no further testimony, the public hearing adjourned at 1:51 p.m.

Respectfully submitted,



SCOTT K. SATO
Council Services Review Officer